

1 BUCHALTER  
A Professional Corporation  
2 VINCENT R. WHITTAKER (SBN: 214007)  
SKYE L. DALEY (SBN: 284592)  
3 CHANDRA A. ROAM (SBN: 323379)  
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[sdaley@buchalter.com](mailto:sdaley@buchalter.com)  
6 [croam@buchalter.com](mailto:croam@buchalter.com)

7 Attorneys for Plaintiffs  
Sarah Gagan, Claire Gagan and Halo's Heart, LLC  
8

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11  
12 SARAH GAGAN, an individual,  
13 CLAIRE GAGAN, an individual, and  
HALO'S HEART, LLC, a California  
Limited Liability Company

14 Plaintiffs,

15 vs.

16 MARC ANTOINE GAGNON, an  
17 individual, MEGGIE ROY, an individual,  
MARIEVE SIMARD, an individual,  
18 ALAIN POIRIER, an individual, and  
DOES 1-280, inclusive,

19 Defendants.  
20

Case No. 5:22-cv-00680-SSS-SP  
Assigned to Hon. Sunshine S. Sykes

**REQUEST FOR ENTRY OF  
DEFAULT; DECLARATION OF  
VINCENT R. WHITTAKER, ESQ.  
IN SUPPORT THEREOF**

21  
22 **TO THE CLERK OF THE ABOVE ENTITLED COURT:**

23 Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure ("FRCP"),  
24 Plaintiffs Sarah Gagan, Claire Gagan, and Halo's Heart, LLC hereby request that the  
25 Clerk of this Court enter a default in this matter against Defendants MARIEVE  
26 SIMARD, an individual ("Simard"), and ALAIN POIRIER, an individual  
27 ("Poirier"), on the ground that said defendants have failed to appear or otherwise  
28 respond to the Complaint within the time prescribed by the FRCP.


**Request for Entry of Default**

1 According to the FRCP, Rule 12(a)(1), the deadline for Defendants Simard  
2 and Poirier to respond has passed. *See* Declaration of Vincent R. Whittaker  
3 (“Whittaker Decl.”), ¶ 6. Plaintiffs effected substitute service of the Summons and  
4 Complaint on Defendants Simard and Poirier on April 22, 2022, as evidenced by the  
5 Proof of Service on file with this Court. *See* Docket Nos. 15 and 16; *see also*  
6 Whittaker Decl., ¶¶ 4 and 5. Consequently, Defendants Simard and Poirier’s  
7 responsive pleadings were due on May 13, 2022. Whittaker Decl., ¶ 6. Defendants  
8 Simard and Poirier, however, have failed to file or serve an answer or other  
9 responsive pleadings and have not otherwise appeared in the action. *Id.* at ¶ 7.

10  
11 DATED: July 13, 2022

BUCHALTER  
A Professional Corporation

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13  
14 By:

  
\_\_\_\_\_  
VINCENT R. WHITTAKER  
SKYE L. DALEY  
CHANDRA A. ROAM  
Attorneys for Plaintiffs HALO’S  
HEART, LLC, a California Limited  
Liability Company, SARAH GAGAN, an  
individual, and CLAIRE GAGAN, an  
individual

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**DECLARATION OF VINCENT R. WHITTAKER**

I, Vincent R. Whittaker, Esq., hereby declare:

1. I am an attorney duly licensed to practice law in the State of California. I am a Shareholder at Buchalter, APC, counsel of record for Plaintiffs Sarah Gagan, Claire Gagan and Halo's Heart, LLC. I make this declaration of my own personal knowledge. If called upon to testify I could and would testify competently to the truth of the matters stated herein.

2. On April 20, 2022, I caused to be filed with this Court the operative Complaint in the matter *Gagan et. al. v. Gagnon et. al.*, case number 5:22-cv-00680-SSS-SPx.

3. My office retained First Legal to execute the service of the Summons and Complaint in this matter.

4. Attached as Exhibit "A" to this Declaration are the Proof of Service for Defendants ALAIN POIRIER and MARIEVE SIMARD, filed with the Court and found on the Court's docket at Nos. 15 and 16

5. According to the aforementioned Proofs of Service, Defendants Simard and Poirier were served with the Summons, Complaint, Civil Cover Sheet, Certification and Notice of Interested Parties, Notice of Assignment to United States Judges, Notice to Parties of Court-Directed ADR Program and Notice to Counsel re Consent to Proceed Before a Magistrate Judge on April 22, 2022, all by substituted service.

6. Pursuant to Rule 12 of the Federal Rules of Civil Procedure, Defendants Simard and Poirier's responses to the Complaint were due 21 days after service, which date falls on May 13, 2022.

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1           7. As of July 13, 2022, neither Simard nor Poirier have filed or served an  
2 answer or other responsive pleadings and have not otherwise appeared in the action.

3           I declare under penalty of perjury under the laws of the State of California  
4 that the foregoing is true and correct.

5  
6 Dated: July 13, 2022

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9 Declarant  
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# EXHIBIT A

Attorney or Party without Attorney: MICHELLE K. MEEK, ESQ. (SBN 259993) BUCHALTER, A Professional Corporation 18400 Von Karman Avenue, Suite 800 Irvine, CA 92612 Telephone No: 949-760-1121				<b>For Court Use Only</b>
Attorney For: Plaintiffs Sarah Gagan, Claire Gagan and Halo's Heart, LLC		Ref. No. or File No.: H25140-0002		
Insert name of Court, and Judicial District and Branch Court: UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA				
Plaintiff: SARAH GAGAN, ET AL. Defendant: MARC ANTOINE GAGNON, ET AL.				
<b>PROOF OF SERVICE</b>	Hearing Date:	Time:	Dept/Div:	Case Number: 5:22-cv-00680-JWH (SPx)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the Summons in a Civil Action; COMPLAINT ; Civil Cover Sheet; Certification and Notice of Interested Parties (LOCAL RULE 7.1-1); Notice of Assignment to United States Judges; Notice to Parties of Court-Directed ADR Program; Notice to Counsel Re Consent to Proceed Before a United States Magistrate Judge
3. a. Party served: ALAIN POIRIER, an individual
4. Address where the party was served: 72646 Bel Air Rd, Palm Desert, CA 92260
5. I served the party:
  - a. by substituted service. On: Fri, Apr 22 2022 at: 05:48 PM by leaving the copies with or in the presence of:  
 Meggie Roy, Occupant / Served under F.R.C.P. Rule 4.
    - (1) ☒ (Residence or Usual Place of Abode) a person of suitable age and discretion who resides there.
    - (2) ☐ (Company) a Person in charge at least 18 years of age apparently in charge of the office or usual place of business of the person served. I informed him or her of the general nature of the papers.
    - (3) ☒ (Declaration of Mailing) is attached.
    - (4) ☐ (Declaration of Diligence) attached stating actions taken first to attempt personal service.



PROOF OF  
SERVICE

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(11775508)  
Page 1 of 2

Attorney or Party without Attorney: MICHELLE K. MEEK, ESQ. (SBN 259993) BUCHALTER, A Professional Corporation 18400 Von Karman Avenue, Suite 800 Irvine, CA 92612 Telephone No: 949-760-1121				For Court Use Only
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<b>PROOF OF SERVICE</b>	Hearing Date:	Time:	Dept/Div:	Case Number: 5:22-cv-00680-JWH (SPx)

6. *Person Who Served Papers:*

a. Lyndsey Warn (#1975, Riverside)

b. **FIRST LEGAL**

600 W. Santa Ana Blvd., Ste. 101

SANTA ANA, CA 92701

c. (714) 541-1110

d. *The Fee for Service was:* \$74.80

e. I am: A Registered California Process Server

7. *I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.*

05/13/2022

(Date)

*L. Warn*

(Signature)



PROOF OF  
SERVICE

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(11775508)  
Page 2 of 2

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Attorney For: Plaintiffs Sarah Gagan, Claire Gagan and Halo's Heart, LLC		Ref. No. or File No.: H25140-0002		
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Plaintiff: SARAH GAGAN, ET AL. Defendant: MARC ANTOINE GAGNON, ET AL.				
<b>PROOF OF SERVICE</b>  <b>By Mail</b>	Hearing Date:	Time:	Dept/Div:	Case Number: 5:22-cv-00680-JWH (SPx)

1. *I am over the age of 18 and not a party to this action. I am employed in the county where the mailing occurred.*
2. I served copies of the Summons in a Civil Action; COMPLAINT ; Civil Cover Sheet; Certification and Notice of Interested Parties (LOCAL RULE 7.1-1); Notice of Assignment to United States Judges; Notice to Parties of Court-Directed ADR Program; Notice to Counsel Re Consent to Proceed Before a United States Magistrate Judge
3. By placing a true copy of each document in the United States mail, in a sealed envelope by **First Class** mail with postage prepaid as follows:
  - a. Date of Mailing: Mon, Apr 25, 2022
  - b. Place of Mailing: SANTA ANA, CA 92701
  - c. Addressed as follows: ALAIN POIRIER, an individual  
72646 Bel Air Rd, Palm Desert, CA 92260
4. *I am readily familiar with the business practice for collection and processing of correspondence as deposited with the U.S. Postal Service on Mon, Apr 25, 2022 in the ordinary course of business.*

Recoverable cost Per CCP 1033.5(a)(4)(B)

**5. Person Serving:**

- a. DAVID LEDESMA (2891, Orange County)  
b. **FIRST LEGAL**  
600 W. Santa Ana Boulevard, Suite 101  
SANTA ANA, CA 92701  
c. (714) 541-1110

- d. *The Fee for Service was: \$74.80*  
e. I am: Not a Registered California Process Server

6. *I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.*

05/13/2022

(Date)

David Leclerc

(Signature)



Judicial Council Form  
Rule 2.150.(a)&(b) Rev January 1, 2007

**PROOF OF SERVICE  
BY MAIL**

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(11775508)



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3. a. Party served: MARIEVE SIMARD, an individual
4. Address where the party was served: 72646 Bel Air Rd, Palm Desert, CA 92260
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    - (1) ☒ (Residence or Usual Place of Abode) a person of suitable age and discretion who resides there.
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PROOF OF  
SERVICE

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Page 1 of 2

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6. **Person Who Served Papers:**

- a. Lyndsey Warn (#1975, Riverside)
- b. **FIRST LEGAL**  
 600 W. Santa Ana Blvd., Ste. 101  
 SANTA ANA, CA 92701
- c. (714) 541-1110

d. **The Fee for Service** was: \$74.80

e. I am: A Registered California Process Server

7. **I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.**

05/13/2022

(Date)

*L. Warn*

(Signature)



PROOF OF  
SERVICE

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(11775506)  
Page 2 of 2

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- Recoverable cost Per CCP 1033.5(a)(4)(B)
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05/13/2022

(Date)

David Ledesma

(Signature)

